

**Minutes
Bar Harbor Planning Board
August 3, 2011
Council Chambers – Municipal Building
93 Cottage Street
6:00 P.M.**

I. CALL TO ORDER

The Chair called the meeting to order at 6:04 PM. Members Present: Lynne Williams, Chair; Perry Moore, Vice Chair; Peter Hastings, Secretary; Elizabeth McMullan, Member.

Also present: Angela Chamberlain, Acting Planning Director; Dana Reed, Town Manager.

II. ADOPTION OF THE AGENDA

Mr. Moore moved to adopt the agenda as presented with one amendment. He proposed to strike Item III. and Item IV. and move item IV a. ii above Item V. Ms. McMullan seconded the motion and the Board voted 4-0 to approve the motion.

III. EXCUSED ABSENCES

There were no absences to excuse.

IV. APPROVAL OF MINUTES

a. July 20, 2011

This item was stricken from the agenda.

V. REGULAR BUSINESS

a. Public Hearing – CU-11-01 – Maggie's LLC/Fabricate – Conditional Use Permit request.

Project Location: 64 Mount Desert St, Tax Map 104 Lot 416

Applicant: Maggie's LLC

Application: Retail/Conditional Use Permit.

The applicant gave a brief overview of the project for the Board. Ms. Chamberlain also added for the Board that the applicant was not present at the previous meeting because of confusion about submittals. The applicant was not aware that she had been automatically placed on an agenda after the original meeting since she had additional documents to supply. She assumed that she would be placed on the agenda after she submitted her documents. The Board noted the comment.

Mr. Moore noted that while the parking was shown on the site plan, the amount, as determined by the buildings square footage, was never provided. Mr. Moore suggested that any approval be conditional upon the Code Enforcement Officer making a determination of parking pursuant to section 125-67 D. (4).

Mr. Moore moved that the application be approved with item 2b. being stricken from the decision and added as a condition of approval. Mr. Hastings seconded the motion and the Board voted 4-0 to approve the motion.

b. Continuation of Completeness Review – CU-11-02 – Elizabeth Moore and Sargent Collier/McCormick Gardens – Conditional Use Permit request.

Project Location: 15 Highbrook Road, Tax Map 103 Lot 051

Applicant: Elizabeth Moore and Sargent Collier

Application: Museum/Conditional Use Permit

The applicant gave a brief over view of the project for the Board. Mr. Moore noted that the parking shown on the site plan was not adequate and did not meet the Ordinance requirements. He suggested that the applicant hire a professional to prepare a parking plan and show where the spaces would be located, how they would be accessed and any tree removal that might be necessary for the parking.

The applicant agreed.

Mr. Moore moved to continue completeness review until August 17, 2011. Mr. Hastings seconded the motion and the Board voted 4-0 to approve the motion.

VI. OTHER BUSINESS

a. Public Hearing – November 2011 Land Use Ordinance Amendments:

i. Wireless Communications

Ms. Chamberlain described the intent and content of the Wireless Communication ordinance for the Board and the public.

Ms. Heather Sorokin spoke and asked that the Board not recommend the passage of this article because of the changes that the Town Council had made to the article during the amendment process. She was discouraged that the setbacks were relaxed from the original document and the setbacks from schools requirement was removed.

Ms. Dessa Dancy and Ms. Laureen Donnelly both noted that they would not vote for this article to pass.

Ms. Jane Disney spoke and said that she was also not comfortable with the removal of the setback requirements to schools and would not vote for this article to pass.

Ms. Kathleen Frank spoke and said that she also would not vote to support this article and wishes that it would all go away.

Ms. Lori Corbani also noted that she would not support the passage of this article.

Mr. Dennis Bracale stated that he felt this article was the result of poor language from the original Wireless Communication ordinance.

Mr. Moore noted that he found more good with the new language than bad and added that while people were upset with the removal of the Acadia National Park language, he said there were standards in the new language for visual assessment impacts which would be a benefit to all designated scenic resources, not just those in Acadia National Park.

Mr. Hastings noted that he had to disagree and liked hard numbers and would rather see a setback requirement in place.

Mr. Moore moved that the Board postpone the Board's recommendations and continue the meeting until August 17, 2011. The Board discussed this issue at length.

Mr. Moore moved to reconsider the motion. Mr. Hastings seconded the motion and the Board voted 4-0 to approve the motion.

Mr. Moore moved that the Board decide which articles they should make their recommendations on that night and which remaining would be placed on the August 17, 2011 agenda. Mr. Hastings seconded the motion and the Board voted 4-0 to approve the motion.

The Board polled the public and asked which articles the public were there for and whether or not they wanted the Board to make their recommendations that night or at the August 17, 2011 meeting. The public indicated that they expected the Board to make their recommendations that night and hoped that the Board would do so. Only one member of the public spoke about the Ordinance Enactment Process order and stated they didn't mind waiting for a recommendation until August 17, 2011.

Mr. Moore moved that the Board continue the Ordinance Enactment Process article to the next meeting and make recommendations on all the other items. Mr. Hastings seconded the motion and the Board voted 3-0-1 to approve the motion with Ms. McMullan abstaining.

Mr. Hasting moved that the Board ought not recommend passage of the Wireless Communications ordinance. Ms. Williams seconded the motion and the Board voted 2-1-1 to approve the motion with Mr. Moore against and Ms. McMullan abstaining.

ii. Ratification of Appendix C

Mr. Reed explained to the Board what the Ratification of Appendix C was and why it was being proposed. Several Board members had questions about the article. Mr. Moore asked Mr. Reed what would happen if this article were to fail. Mr. Reed responded that if it were to fail, nothing would be resolved as far as any existing errors to Appendix C.

The Board inquired if there was time to get a legal opinion from the Town Attorney before they needed to make their recommendation. Mr. Reed said that there was time and the Board could request that Mr. Bragg be available at the August 17, 2011 Planning Board meeting to answer questions if that would be helpful. The Board agreed.

Ms. Williams opened the meeting up for public comment.

Mr. Dennis Bracale spoke about how Appendix C does not compare to the previous Appendix C and he didn't think this was an appropriate fix and urged the Board not to support this article.

Mr. Robert Phipps spoke at length about the article and also urged the Board not to support it.

Mr. James Blanchard spoke and asked the Board to vote against ratifying Appendix C and eliminate some of the public perception that this is a poisonous document.

Ms. Julie Vehr also asked the Board not to support this article and noted that the Town should be correcting Appendix C and its problems, not ratifying it.

Mr. Jake Jagel also spoke against the article.

Mr. Bob Garland spoke as a resident and stated that although Appendix C has been referred to by the Town as an "illustrative aid" only, he felt that it was a very strong illustrative aid and not so easily dismissed. He also added that he noticed there were some changes to the review process for some Agricultural activities on the new Appendix C, notably in the Indian Point Residential district.

Ms. Dessa Dancy also spoke against the article and stated that there are 30 districts in Bar Harbor that have specific permitted uses and the only way to determine what the permitted uses are is to use Appendix C. She did not believe Appendix C was only an illustrative aid.

Mr. Gurtler spoke and said that he was encouraged by the number of people that were present, informed and involved but wanted to remind everyone to be respectful to one another during the process.

Ms. Diane Vreeland spoke against the article and stated that she uses Appendix C all the time and couldn't use the Ordinance without it.

Mr. Moore moved to continue the public hearing until August 17, 2011. Ms. McMullan seconded the motion and the Board voted 4-0 to approve the motion.

Ms. Williams added that she would like members of the public to keep their testimony new at the next meeting and not repeat old testimony to keep the process moving along.

Mr. Reed suggested that the Board come up with a list of questions for the Town Attorney and get it to the Planning Department before August 11, 2011 at 5PM so the Attorney could be prepared.

Mr. Moore moved that Staff request the Town Attorney be present at the next meeting to answer questions on this article. Ms. McMullan seconded the motion and the Board voted 4-0 to approve the motion.

iii. Design Review Board

Ms. Chamberlain gave the intent and content of the amendment to the Board and the public. Ms. Williams opened the hearing to the public.

Mr. Chris Fogg of the Chamber of Commerce told the Board that he hoped they would support these changes and recommend that this article pass. He noted that the Business Roundtable worked with the Design Review Board to come up with these amendments and everyone came away pleased with the end result.

Mr. Hastings also supported the changes but noted that he is hesitant to give up some of the regulation.

Mr. Moore noted that he felt if the Design Review Board was willing to give up some of their review process and they were okay with this language, then the Planning Board should also support it.

Mr. Hastings moved that the Board ought to recommend passage of the Design Review Board article. Mr. Moore seconded the motion and the Board voted 4-0 to approve the motion.

The Board took a short recess.

iv. Shoreland General Development IV – LUO Amendment

Ms. Williams noted for the record that Shoreland General Development IV article and the Map Amendment were one article and should not be voted on separately.

The applicant's attorney, P Andrew Hamilton explained the article to the Board and the public. He noted that the driving force behind this change was DEP's new regulations which require each principal structure to have 150' of shore frontage on a lot. Mr. Hamilton noted that a property such as his client's would be required to have 1500' of shore frontage and this requirement was unreasonable and would create non conformity.

Mr. Bob Garland spoke and said that this was a really good project and didn't have any opposition during any of the process and this was a "feel good" project.

Mr. Moore noted that he was still concerned with the lot standards and did not feel like the Planning Board did their due diligence to make sure the calculations proposed were appropriate.

Mr. Moore moved that the Board ought to recommend passage of the Shoreland General Development IV article and the accompanying map. Mr. Hastings seconded the motion and the Board voted 4-0 to approve.

v. Shoreland General Development IV – Map Amendment

vi. Ordinance Enactment Process

b. 2007 Comp Plan Implementation Projects Update

Mr. Reed informed the Board that previously, the Town Council had decided to hire a professional to take on the task of cleaning up the Ordinance to eliminate any conflicts between sections and to reorganize the Ordinance in a more logical manner. He noted that the Town had hired Mary Denison, an Attorney with Dyer, Goodall, and Denison to complete this task. He said her role was to clean up the Ordinance without making policy changes and to implement the 2007 Comprehensive Plan.

He said at this point she had finished streamlining the Ordinance and had created a separate subdivision ordinance but she still needed to redraft the definitions. He added that the work that Ms. Denison was doing had been put on hold at this time. He noted that he had directed Ms. Denison that this project has been on hold until a permanent Planning Director is in place and not to continue working on it.

Mr. Moore stated that he was frustrated that the Board had not seen anything that had been done and has been told for months that the Board was going to get to review the work Ms. Denison had done and now the project was being halted.

Mr. Reed apologized for that but said he had never promised the Board they would get to work on it and if he had, they would have had an opportunity to see it.

c. Former Town Hill Mini Plan – Public Comment

The Board discussed the Town Hill Mini plan and what direction they were going to go with it. Mr. Hastings noted that he simply needed a starting point to get going.

Ms. Jane Disney informed the Board that she had a document that was created by a group in Town Hill in response to the original mini plan. She offered it to the Board for their review.

Mr. Bob Garland also added that he would be happy to assist in working on this project again.

Ms. Lori Corbani spoke to the issue and noted her frustration with the process. She felt that so much work had been done and the Town Council just threw it all out.

Ms. Laureen Donnelly also added that she was glad the Board was going to revisit this plan.

Ms. Diane Vreeland stated that she hoped that more business people and developers would be involved in the plan. She was interested in their view and further added that she hoped some of the meetings would be based in Town Hill.

Mr. Moore moved that the Vice Chair, in capacity as the Planning Board liaison to the Town Council, attend the Town Council meeting on August 16, 2011 to outline what Planning Board heard from the public during their meetings. They will propose to the Town Council that they can take the document that is in hand and remove the items that were an issue, resolve them and decide whether they want to send a new plan to the voters or put together a set of policy implementation strategies that can be inserted as a comp plan update. Mr. Hastings seconded the motion and the Board voted 4-0 to approve the motion.

d. Request of Acting Planning Director to discuss the review process of a project pursuant to 125-58 B.

Ms. Chamberlain noted that since the time this item had been placed on the agenda, it had been resolved and no action was necessary.

VII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

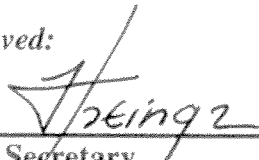
There were no Board comments.

VIII. ADJOURNMENT

Mr. Moore moved to adjourn at 9:31 PM. Mr. Hastings seconded the motion and the Board voted 4-0 to approve the motion.

Minutes prepared by Acting Planning Director, Angela M Chamberlain, and reviewed by Secretary Peter Hastings, for the Planning Board review at the August 17, 2011 meeting.

Signed as approved:



**Peter Hastings, Secretary
Planning Board, Town of Bar Harbor**

The Planning Board allows one-hour maximum for each agenda item, unless voted upon otherwise by the members. Application materials are on file with the Bar Harbor Planning Department, 93 Cottage Street, Bar Harbor, and can be viewed during regular business hours, Monday-Friday, 8:30 a.m. to 5:00 p.m. The Planning Board strives to hold meetings that are accessible to all. Please contact the Bar Harbor Planning Department by calling 288-3329 or by e-mail to planningdirector@barharbormaine.gov if you have any questions about this process or to let us know what you may require to facilitate your participation.